THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 5294 of 2006

DATED: 18-03-2006

Between:

T.S. Venkata Ramana …Petitioner

and

Visakhapatnam Municipal Corporation

Rep. by its Commissioner,

Visakhapatnam and another … Respondents

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

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WRIT PETITION NO. 5294 of 2006

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ORDER:

Petitioner filed the present writ petition seeking to declare the action of the respondents in not providing the documents and certificates more particularly in form No.16A submitted to the Income Tax Department, Visakhapatnam where the respondent has deducted the income tax at source from the fee payment of the petitioner for the years 2003-04, 2004-05 and 2005-06 as illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and perused the material on record.

It is the case of the petitioner that initially petitioner was appointed as Standing Counsel for Visakhapatnam and other Municipal Corporations vide proceedings of the Advocate General vide his letter No.526/1996, dated 14-04-1996 and the same has been ratified by the Government on temporary basis as the earlier standing counsel fell sick. Subsequently, petitioner was regularly appointed as Standing Counsel for Visakhapatnam and Vijayawada Municipal Corporations for a period of three years vide G.O.Rt.No.773 Law (A) Department, dated 28-10-1996, and even after completion of three years, petitioner has been continuing as standing counsel and appearing for the respondent corporations.

It is the case of the petitioner that after receiving the G.O.Ms.No.209 issued by the Government with regard to the payment of remuneration to the Standing counsels/Law Officers, Vijayawada Corporation Commissioner and Mayor negotiated with the petitioner in the year 1997 and enhanced the fee from Rs.1000/- to Rs.1900/- for each case i.e., Writ petition, Original Application, Writ Appeal, Contempt Cases and CRPs and fee payable as per Advocate Fee rules in respect of Civil matters i.e. First Appeals, Second Appeals and CMSA's and accordingly passed resolution to that effect. But the respondent even after passing of resolution also had not paid the fees at the enhanced rates.

It is the case of the petitioner that with regard to the payment of fees, Writ Petition No.16731/2005 is pending. The grievance of the petitioner in this case is that the respondents had paid only part of the fee and deducted the income tax at source. But Form No.16A has not been issued to the petitioner so as to enable him to get the benefit of deduction of the tax at source for the years 2003-04, 2004-05 and 2005-06 i.e. for three assessment years.

I am of the opinion that when the tax has been deducted at source while paying the part of the fee payable to the petitioner, there is no justification whatsoever on the part of the respondents in not issuing Form No.16A certificate so as to enable the petitioner to get the benefit of tax deductions in filing the income tax returns.

Having regard to the facts and circumstances of the case, respondents are hereby directed to issue Form 16A certificate in respect of the deductions of the tax to the petitioner for the assessment years i.e. for 2003-04, 2004-05 and 2005-06 within two weeks from the date of receipt of a copy of this order.

Writ petition is accordingly disposed of. No order as to costs.

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V. ESWARAIAH, J.

Dated: 18-03-2006

Note:

Issue C.C.within two days.

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